

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Charles P. Kocoras	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	98 C 7909	DATE	8/7/2000
CASE TITLE	Shapo vs. Engle et al		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) Filed motion of [use listing in "Motion" box above.]

(2) Brief in support of motion due _____.

(3) Answer brief to motion due _____. Reply to answer brief due _____.

(4) Ruling/Hearing on _____ set for _____ at _____.

(5) Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.

(6) Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.

(7) Trial[set for/re-set for] on _____ at _____.

(8) [Bench/Jury trial] [Hearing] held/continued to _____ at _____.

(9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 FRCP4(m) General Rule 21 FRCP41(a)(1) FRCP41(a)(2).

(10) [Other docket entry] **ENTER MEMORANDUM OPINION:** The Court denies Plaintiffs' motion
(Doc 264-1) for leave to file an amended Count XIII.

(11) [For further detail see order attached to the original minute order.]

	No notices required, advised in open court.		Document Number
	No notices required.	number of notices	
	Notices mailed by judge's staff.	date docketed	
	Notified counsel by telephone.	docketing deputy initials	
✓	Docketing to mail notices.		
	Mail AO 450 form.		
	Copy to judge/magistrate judge.		
SCT	courtroom deputy's initials	ED-7 FILED FOR DOCKETING 00 AUG -7 PM 2:03	269
		Date/time received in central Clerk's Office	
		Mailing Deputy Initials	

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

NATHANIEL S. SHAPO, Director of Insurance
of the State of Illinois, solely in his capacity as
statutory and court-affirmed Liquidator of Coronet
Insurance Company, Crown Casualty Company
and National Indemnity Company,

Plaintiff,

VS.

CLYDE WM. ENGLE; TIMOTHY LOWELL BROWN; LEE N. MORTENSON; EVERETT A. SISSON; ROBERT SPILLER; GLENN J. KENNEDY; RICHARD A. LEONARD; PAUL HOWARD ALBRITTON JR.; PETER HENRY BERGMAN; TELCO CAPITAL CORPORATION; RDIS CORPORATION; WISCONSIN REAL ESTATE INVESTMENT TRUST; HICKORY FURNITURE CORPORATION; INDIANA FINANCIAL INVESTORS , INC.; SUNSTATES CORPORATION; NORMANDY INSURANCE AGENCY, INC.; SEW SIMPLE SYSTEMS, INC.; SUNSTATES EQUITIES, INC.; SUNSTATES FINANCIAL SERVICES, INC.; ALBA-WALDENSIAN HOLDINGS COMPANY; RMHC (DELAWARE), INC.; WELLCO HOLDINGS COMPANY; and SUNSTATES REALTY GROUP, INC..

DOCKETED
AUG 8 2000

AUG 8 2000

98 C 7909

Defendants.

THE SPRINGS-ILLINOIS, INC.

Plaintiff-Intervenor,

VS.

GLENN J. KENNEDY; SEW SIMPLE SYSTEMS,
INC., and SUNSTATES REALTY GROUP, INC.,

Defendants.

MEMORANDUM OPINION

269

CHARLES P. KOCORAS, District Judge:

This matter comes before the Court on Plaintiff's motion for leave to file amended Count XIII. For the reasons set forth below, the Court denies Plaintiff's motion.

DISCUSSION

This Court has set forth the factual background of this case at length in previous decisions in this matter. See Shapo v. Engle, No. 98 C 7909, 1999 WL 446853 (N.D. Ill. June 11, 1999) (Kocoras, J.) (denying certain Defendants' motion for advancement of expenses and costs); Shapo v. Engle, No. 98 C 7909, 1999 WL 528528 (N.D. Ill. July 13, 1999) (Kocoras, J.) (dismissing Plaintiff's Second Amended Complaint); Shapo v. Engle, No. 98 C 7909 (N.D. Ill. Nov. 10, 1999). For purposes of this motion, the Court assumes familiarity with those facts.

This Court previously denied Plaintiff Nathaniel S. Shapo's ("Shapo") motion for leave to amend his complaint to add Count XIII against new Defendant, the Bank of Lincolnwood ("BOL"), finding that Shapo had not stated his allegations of BOL's involvement in a RICO scheme to defraud with sufficient particularity. See Shapo v. Engle, No. 98 C 7909 (N.D. Ill. June 30, 2000). Presently, Shapo seeks leave to file an amended Count XIII, maintaining that he has now stated with particularity his claim that BOL is a key member of the alleged conspiracy to defraud the three Insurance companies of which Shapo is the statutory and court-affirmed Liquidator.

Although Shapo has now amended his complaint to allege that Howard Friedman and David Blears, along with Engle's wife and daughter, were also members of BOL's Board of Directors, the Court remains unpersuaded that Shapo's claims against BOL are alleged with sufficient particularity. Shapo's amended Count XIII remains substantially the same as his initial one. The amended Count XIII continues to focus on and allege illegal actions directed by Engle and seeks to impute Engle's actions to BOL. Other than through Engle's individual actions, through which he directed BOL in common banking activities, Shapo does not allege that BOL as an entity knowingly participated in a conspiracy to defraud. "Mere allegations of fraud, corruption , or conspiracy, averments to conditions of mind, or referrals to plans and schemes are too conclusional to satisfy the particularity requirement, no matter how many times such accusations are repeated." Flynn v. Merrick, 881 F.2d 446, 449 (7th Cir. 1989), quoting Hayduck v. Lanna, 775 F.2d 441, 444 (1st Cir. 1985). Until Plaintiff can allege BOL's participation through more than Engle's mere membership on its Board of Directors, the Court will deny Plaintiff leave to file his Count XIII.

CONCLUSION

For the reasons set forth above, the Court denies Plaintiff's motion for leave to file an amended Count XIII.

Charles P. Kocoras
Charles P. Kocoras
United States District Judge

Dated: 8/7/2000